

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION**

**MATRIX PARTNERS VIII, LLP,  
and WESTON & CO. VIII, LLC**

**V.**

**NATURAL RESOURCE  
RECOVERY, INC.**

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**NO. 1:08-CV-547**

**ORDER ADOPTING  
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

The court referred plaintiffs' emergency motion for temporary restraining order and preliminary injunction to the Honorable Earl S. Hines, United States magistrate judge who submitted a report containing a recommendation that the court deny the plaintiffs' motion. Judge Hines observed that the court's authority to grant an asset-freezing preliminary injunction in a breach of contract action prior to a judgment fixing the debt is not clearly established. Nevertheless, and assuming that such authority does exist, he concluded that plaintiffs did not in any event meet their burden of showing irreparable harm or a substantial likelihood of success on the merits.

Plaintiffs filed timely objections. This requires a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made. 28 U.S.C. § 636(b)(1)(C).

After conducting such review, the court concludes that the magistrate judge's findings, conclusions and analysis are correct. Plaintiffs' failed to provide the court with proof of irreparable harm or a substantial likelihood of success. Subsequent factual developments not presented to the magistrate judge may alter the legal landscape with respect to plaintiff's likelihood of success, but

plaintiffs still have presented no evidence of irreparable harm. Rather, they have offered only *ipse dixit* assertions of the defendant's alleged insolvency.

Accordingly, plaintiffs' objections (Docket No. 35) are **OVERRULED**, and the magistrate judge's report is hereby **ADOPTED**. It is further

**ORDERED** that "Plaintiffs' Emergency Ex Parte Motion for Preliminary Injunction and Temporary Restraining Order" (Docket Nos. 13 and 14) is **DENIED**.

The purpose of the referral having been served, it is further **ORDERED** that the reference to the magistrate judge is **VACATED**.

**SIGNED** this the **23** day of **January**, 2009.

A handwritten signature in black ink, appearing to read "Thad Heartfield", written over a horizontal line.

Thad Heartfield  
United States District Judge